

Christian H. Dribusch (507021) **Hearing Date:** **October 26, 2010**
The Patroon Building **Hearing Time:** **10:00 a.m.**
Five Clinton Square **Hearing Location:** **Alexander Pirnie Federal Building**
Albany, NY 12207 **10 Broad Street**
Tel: 518.436.1662 **Utica, NY 13501**

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF NEW YORK

In re:

LOIS A JENNE

Debtor.

Chapter 7
Case No.: **10-61880**

**MOTION FOR TRUSTEE AUTHORITY
TO SELL PROPERTY OF THE
BANKRUPTCY ESTATE.**

To: *Diane Davis, United States Bankruptcy Court*

Christian H. Dribusch, the chapter 7 trustee for the bankruptcy estate ("Trustee") makes this motion for an Order approving the sale of the property more particularly described on Schedule A ("Property"), or, alternatively, to abandon the Property, and in furtherance of the motion respectfully represents as follows:

Parties, Jurisdiction and Venue

1. The Debtor filed a voluntary petition for relief pursuant to Chapter 7 of the Bankruptcy Code with the Bankruptcy Court for the Northern District of New York (the "District"). The Trustee was appointed interim trustee pursuant to Code §701. This motion made pursuant to Bankruptcy Code §363 and §554 is a core proceeding under 28 U.S.C. §157(b)(2)(M). This Court has jurisdiction over this proceeding pursuant to 28 U.S.C. §157 and §1334. Venue is proper by virtue of 28 U.S.C. §1409(a).

Basis for Relief

1. Kathy and Larry Jenne have made an offer of \$13,500 to purchase the bankruptcy estate's interest in the Property "as is" and "where is" without representation, warranty or recourse of any kind and subject to liens, encumbrances, and claims, including the homestead exemption claim of the Debtor.

2. The statutory authority for the request to sell is Bankruptcy Code §363(b) which provides that "The trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate."

3. The allocation of the proceeds of sale are *estimated* to be as follows:

Sale Proceeds:	\$13,500
Less:	
Secured Claims	\$0
Trustee Commissions and Expenses	\$2,250
Legal Fees and Expenses:	\$500
Net Benefit to the Estate	<u>\$ 2,750</u> \$10,750

4. The Trustee believes that the offer is fair and reasonable based upon the following:

- (i) valuations provided by the Debtor on her voluntary bankruptcy petition;
- (ii) the market force opportunity provided to third parties to formulate higher and better offers.
- (iii) one of the real properties being sold is subject to the Debtor's assertion of a homestead exemption because the real property is contiguous to the Debtor's homestead.
- (iv) two parcels are held by the Debtor as tenants in common and, therefore, would require either the consent of the other tenants in common or an adversary proceeding to allow the property to be sold in its entirety.

Based upon the totality of the circumstances in this case, the Trustee believes the sale of the Property to Kathy and Larry Jenne for \$13,500 is in the best interest of the bankruptcy estate.

5. The sale of the Property is subject to the terms and conditions in the Notice of Motion.

6. If the Property is not approved by the Court, then the Trustee request's authority to abandon the Property in accordance with Bankruptcy Code §554 as being of inconsequential value to the bankruptcy estate.

WHEREFORE, the Trustee request's an order from this granting the motion and for such other and further relief as the Court deems just and proper.

Dated: September 8, 2010

/s/ Christian H. Dribusch
Christian H. Dribusch

Schedule A

34.10 acres off of Santamont Road, Town of Hopkinton, State of New York with a total assessed value of \$10,941 which the Debtor co-owns with 2 siblings.

77.5 acres off of Santamont Road, Town of Hopkinton, State of New York with a total assessed value of \$21,412 subject to claim by Debtor's brother with respect to an unrecorded deed and claimed as part of the homestead exemption of the Debtor.

Less than 1 acre with a 1957 trailer located at 21 Rosenbarker Drive, Town of Parishville, State of New York with a total assessed value of \$40,089 which the Debtor co-owns with 2 siblings.